

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**
Harrisonburg Division

IN RE:
GENE GARY SERRETT
DONNA LYNN SERRETT
Debtors

Case No. 15-50411-RBC

Chapter 13

SETERUS, INC., AS THE AUTHORIZED
SUBSERVICER FOR FEDERAL NATIONAL
MORTGAGE ASSOCIATION ("FANNIE MAE"),
CREDITOR C/O SETERUS, INC.
Movant

v.
GENE GARY SERRETT
DONNA LYNN SERRETT
Debtors/Respondents
and
HERBERT L. BESKIN
Trustee/Respondent

MOTION FOR RELIEF FROM AUTOMATIC STAY

Seterus, Inc., as the authorized servicer for Federal National Mortgage Association ("Fannie Mae"), creditor c/o Seterus, Inc. ("Movant") hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay, with respect to certain real property of the Debtors having an address of 814 Laurel Hill RD, Verona, VA 24482-2631 (the "Property"), for all purposes allowed by the Note (defined below), the Deed of Trust (defined below), and applicable law, including but not limited to the right to foreclose. In further support of this Motion, Movant respectfully states:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 & 157.
2. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtors on April 27, 2015.
3. A Chapter 13 Plan was confirmed on July 14, 2015.
4. The Debtors have executed and delivered or are otherwise obligated with respect to that certain promissory note in the original principal amount of \$163,500.00 (the "Note"). A copy of the Note is attached hereto. Movant is an entity entitled to enforce the Note.

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Attorney for the Movant

5. Pursuant to that certain Deed of Trust (the "Deed of Trust"), all obligations (collectively, the "Obligations") of the Debtors under and with respect to the Note and the Deed of Trust are secured by the Property. The lien created by the Deed of Trust was perfected by recording of the Deed of Trust in the office of the Clerk of the Circuit Court of Augusta County, Virginia. A copy of the recorded Deed of Trust is attached hereto.

6. Effective on or about November 5, 2013, the terms of the note and Deed of Trust were modified by a written agreement (the "Loan Modification Agreement"). A copy of the Loan Modification Agreement is attached hereto.

7. The legal description of the Property is:

LAND TOGETHER WITH ALL BUILDINGS AND IMPROVEMENTS THEREON IN THE BEVERLEY MANOR DISTRICT OF AUGUSTA COUNTY, VIRGINIA, CONTAINING 0.989 ACRE, DESCRIBED ON A PLAT DATED APRIL 22, 1996, MADE BY BARRY E. LOTTS, PC, ENTITLED "PHYSICAL SURVEY OF LOT 2 AND A 0 FOOT PARCEL, R.M. SUNDERLIN'S PLAT FOR GARLAND N. BEASLEY, JR. AND CRYSTAL D. BEASLEY" OF RECORD IN THE AUGUSTA COUNTY CLERK'S OFFICE IN DEED BOOK 1258, PAGE 201.
PARCEL NO. 47A-(1)-2

8. As of June 26, 2017, the outstanding amount of the Obligations due to the Movant, less any partial payments or suspense balance is:

| | |
|---|--------------|
| Unpaid Principal Balance | \$156,789.38 |
| Unpaid Accrued Interest | \$3,565.34 |
| Uncollected Late Charges | \$271.12 |
| Mortgage Insurance Premiums | \$0.00 |
| Taxes and Insurance Payments on behalf of Debtors | \$299.17 |
| Other Costs | \$105.00 |
| Less: Partial Payments | (\$255.14) |
| Minimum Outstanding Obligations | \$160,774.87 |

9. The following chart sets forth the number and amount of postpetition payments due pursuant to the terms of the Note that have been missed by the Debtors as of July 21, 2017:

| Number of Missed Payments | From | To | Monthly Payment Amount | Total Missed Payments |
|--|------------|------------|------------------------|-----------------------|
| 6 | 02/01/2017 | 07/01/2017 | \$741.69 | \$4,450.14 |
| Less postpetition partial payments (suspense balance): | | | | (\$177.84) |

Total Postpetition Payments: \$4,272.30

10. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$850.00 in legal fees and \$181.00 in costs.

11. The estimated value of the Property is \$161,700.00. The basis for such valuation is the Debtors' Schedules.

12. Cause exists for relief from the automatic stay for the following reasons:

- a. Movant's interest in the Property is not adequately protected.
- b. Post-petition payments required by the confirmed plan have not been made to Movant.
- c. Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtors have no equity in the Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay for all purposes allowed by the Note, the Deed of Trust, and applicable law, including but not limited to allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.
2. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.
3. For such other relief as the Court deems proper.

Dated: July 25, 2017

Respectfully Submitted,
BWW Law Group, LLC

/s/ Lauren French
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CERTIFICATE OF SERVICE

I certify that on this 25th day of July, 2017, the following person(s) were or will be served with a copy of the foregoing Motion for Relief from Automatic Stay electronically via the CM/ECF system or by first class mail, postage prepaid:

Herbert L. Beskin, Trustee
PO Box 2103
Charlottesville, VA 22902

H. David Cox, Esq.
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/s/ Lauren French

Lauren French